

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ADOLFO GODOY,

Petitioner,

v.

ROBERT LEGRAND, et al.,

Respondents.

Case No. 3:14-cv-00524-MMD-WGC

ORDER

Before the Court is petitioner Adolfo Godoy's second amended *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (dkt. no. 21). The Court has reviewed the petition pursuant to Habeas Rule 4 and it shall be docketed and served on respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the Court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

It is therefore ordered that petitioner's motion for leave to file longer than normal petition (dkt. no. 20) is granted.

It is further ordered that respondents file a response to the second amended petition, including potentially by motion to dismiss, within ninety (90) days of service of the petition, with any requests for relief by petitioner by motion otherwise

1 being subject to the normal briefing schedule under the local rules. Any response filed  
2 must comply with the remaining provisions below, which are entered pursuant to  
3 Habeas Rule 5.

4 It is further ordered that any procedural defenses raised by respondents in this  
5 case must be raised together in a single consolidated motion to dismiss. In other words,  
6 the Court does not wish to address any procedural defenses raised herein either *in*  
7 *seriatum* fashion in multiple successive motions to dismiss or embedded in the answer.  
8 Procedural defenses omitted from such motion to dismiss will be subject to potential  
9 waiver. Respondents will not file a response in this case that consolidates their  
10 procedural defenses, if any, with their response on the merits, except pursuant to 28  
11 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents  
12 do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they must do so within  
13 the single motion to dismiss not in the answer; and (b) they must specifically direct their  
14 argument to the standard for dismissal under § 2254(b)(2) set forth in *Cassett v.*  
15 *Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses,  
16 including exhaustion, will be included with the merits in an answer. All procedural  
17 defenses, including exhaustion, instead must be raised by motion to dismiss.

18 It is further ordered that, in any answer filed on the merits, respondents must  
19 specifically cite to and address the applicable state court written decision and state  
20 court record materials, if any, regarding each claim within the response as to that claim.

21 It is further ordered that petitioner will have forty-five (45) days from service of the  
22 answer, motion to dismiss, or other response to file a reply or opposition, with any other  
23 requests for relief by respondents by motion otherwise being subject to the normal  
24 briefing schedule under the local rules.

25 It is further ordered that any additional state court record exhibits filed herein by  
26 either petitioner or respondents must be filed with a separate index of exhibits  
27 identifying the exhibits by number. The CM/ECF attachments that are filed further must  
28 be identified by the number or numbers of the exhibits in the attachment.

1 It is further ordered that the parties must send courtesy copies of all exhibits to  
2 the Reno Division of this court. While the Local Rules provide that parties should send  
3 paper courtesy copies of filings over fifty pages, in this instance, courtesy copies may  
4 be in paper form or as PDF documents saved to a CD — so long as each PDF is clearly  
5 identified by exhibit number. Courtesy copies must be mailed to the Clerk of Court, 400  
6 S. Virginia St., Reno, NV, 89501, and directed to the attention of “Staff Attorney” on the  
7 outside of the mailing address label. Additionally, in the future, all parties must provide  
8 courtesy copies of any additional exhibits submitted to the Court in this case, in the  
9 manner described above.

10 DATED THIS 7<sup>th</sup> day of January 2016.



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12 MIRANDA M. DU  
13 UNITED STATES DISTRICT JUDGE  
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